

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

**THOMAS GLENDALE JOHNSON,
INDIVIDUALLY AND ON BEHALF
OF ALL OTHERS SIMILARLY
SITUATED,**

VS.

**RYAN C. HOERAUF, INC. D/B/A
O'RYAN OIL & GAS AND
RYAN C. HOERAUF**

[illegible]

CIVIL ACTION NO. 6:19-cv-205

COLLECTIVE ACTION
29 U.S.C. §216(b)
JURY DEMANDED

PLAINTIFF'S ORIGINAL COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

INTRODUCTION

1. Pursuant to 29 USC § 207 (“FLSA”), the named plaintiff alleges violations of his statutory employment right to receive overtime pay from Defendant, Ryan C. Hoerauf, Inc. dba O’Ryan Oil & Gas (Hereinafter “O’Ryan Oil & Gas”) as a result of Defendants’ failure to pay Plaintiff and all those similarly situated workers overtime wages. Pursuant to 29 USC § 216 (b), the named plaintiff also seeks to represent all other similarly situated past and present employees, as described herein, who have not been paid overtime and to have this action certified as a collective action. For themselves and all those similarly situated, the named employees seek their unpaid overtime, liquidated damages, all available equitable relief, attorney fees, and litigation expenses/costs, including expert witness fees and expenses.

PARTIES

2. Plaintiff, Thomas Glendale Johnson, is a resident of Malakoff, Henderson County, Texas.

The Plaintiff brings this action individually in his own behalf and, pursuant to §216(b) of the Fair

Labor Standards Act, as a representative of a class of individuals who are similarly situated and who have suffered the same or similar damages. Ryan C. Hoerauf, Inc. dba O’Ryan Oil & Gas is a Texas corporation doing business in the Eastern District of Texas with its principal place of business at 1 Mission Blvd, Odessa, Texas. Defendant may be served by delivering a copy of this petition to its registered agent for service, Ryan C. Hoerauf, 1 Mission Blvd, Odessa, Texas 79765.

JURISDICTION AND VENUE

3. This court has jurisdiction by virtue of 28 USC §§ 1331, and 1391. The Defendant’s Henderson, Texas location is located within the Eastern District of Texas and within the Marshall Division and the Court has subject matter jurisdiction and personal jurisdiction to hear the case. *See* 29 U.S.C. 201, et seq.

FACTS

4. In November 2016, Plaintiff began his employment at O’Ryan Oil & Gas’ Big “R” Gas Plant in Henderson County, Texas. His job at O’Ryan Oil & Gas was called a plant operator; however, the work he did for O’Ryan Oil & Gas was not exempt as defined under 29 CFR part 451. Plaintiff alleges that he was misclassified as an exempt employee under the FLSA. The evidence at trial will show that Plaintiff was not paid overtime wages at one and one-half times his regular hourly rate for all hours worked in excess of 40 hours in a work week.

5. Plaintiff alleges that Defendant Ryan C. Hoerauf is a manager of O’Ryan Oil & Gas with “substantial control over the terms and conditions of the work” of Plaintiff and the putative class members. As such, Hoerauf is an “employer” as defined by the Fair Labor Standards Act, 29 U.S.C. § 203(d).

6. Plaintiff believes and, therefore, allege that the failure of Defendants to pay Plaintiff and all those similarly situated for overtime pay was intentional.

CLAIMS

7. The Fair Labor Standards Act (29 U.S.C. § 201, *et seq.*) is commonly referred to as “FSLA.” Among other things, the FSLA statutes and the regulations promulgated thereunder govern the activities of the pay practices of employers involved in commerce. Plaintiff alleges that the failure to pay Plaintiff and all those similarly situated for all hours worked is a direct violation of the FLSA statutes and regulations. Additionally, Plaintiff alleges that the failure to pay Plaintiff and all those similarly situated one and one-half his regular rate for all hours worked in excess of 40 hours in a work week is a direct violation of the FLSA statutes and regulations. Plaintiff and all those similarly situated are entitled to receive the unpaid wages due him, liquidated damages, costs, and attorneys’ fees.

COLLECTIVE ACTION

8. Pursuant to 29 U.S.C. § 216 (b), Plaintiff Thomas Glendale Johnson brings this action in his individual capacity and as a collective action. As alleged in detail elsewhere herein, Thomas Johnson seeks this court's appointment and/or designation as representative of a class of similarly situated employees of O’Ryan Oil & Gas who were not paid for all overtime hours worked as described herein. On information and belief, there are numerous plant operators who were not paid for all overtime hours worked for O’Ryan Oil & Gas as described herein. The questions of law and fact are common to the class of similarly situated employees. The failure to pay its employees for the overtime hours worked was common to all of O’Ryan Oil & Gas’ plant operator.

9. Thomas Glendale Johnson specifically requests that he be permitted to serve as a representative of the affected class, and this action should be certified as a collective action pursuant to 29 U.S.C. § 216(b).

JURY DEMAND

10. Plaintiff, individually and as a representative of the class, request a jury trial.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the class be certified, and that the Plaintiff and each member of the class recover from Defendant the following:

1. The unpaid wages due to Plaintiffs;
2. Liquidated damages authorized by the applicable statutes;
3. Unpaid wages due to all class members;
4. Liquidated damages to all class members;
5. Court costs;
6. Attorneys' fees; and
7. Such other and further relief as the Court deems just.

Respectfully submitted,

/s/ William S. Hommel, Jr.

William S. Hommel, Jr.

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AND THE PUTATIVE CLASS